

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0046P

Use Tax

Calendar Years 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1996, 1997, and 1998. Upon audit it was discovered that the taxpayer failed to self assess use tax on clearly taxable items, issues that were present in a prior audit completed on September 24, 1993. The prior audit waived taxpayer's penalty and advised the taxpayer to begin self-assessing use tax.

Taxpayer, in a letter dated December 29, 1999 protested the penalty assessed and states it has attempted to comply with the requirements for Indiana Use Tax but was not knowledgeable regarding some of the finer points.

Although the taxpayer paid a minimal amount of use tax during the current audit period, it did not pay tax on clearly taxable items such as office supplies, office equipment, books, subscriptions, catered meals and miscellaneous supplies. The assessment in the current audit is four times that of the previous audit. The current auditor allowed the taxpayer a credit for electricity used in production.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent when it failed to remit use tax due.

Taxpayer states it had attempted to comply with the requirements for Indiana Use Tax but was not knowledgeable regarding some of the finer points and asks that the department waive its negligence penalty.

The audit, however, indicates the taxpayer failed in self-assessing use tax for similar items assessed in the prior audit. The prior audit allowed a waiver of the negligence penalty.

Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

The taxpayer's protest is denied.